

REMARKS

Claims 21-39 are pending in the application. Claim 21 is independent.

The Rejections under 35 U.S.C. § 102(b)

Claims 21-36 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Herron, Jr. (U.S. Patent No. 4,970,753). Applicants respectfully traverse this rejection.

In the June 2, 2001 Amendment, Applicants amended independent claim 21 to further define features of the second capsule part that are neither taught nor suggested by Herron, Jr. Specifically claim 21 recites that “the housing part of the blower housing is a blower compartment cover on which a second capsule part of the insulating capsule is molded *forming another single piece*. In the Response to Arguments, the grounds of rejection state that Applicants’ claim language is directed towards how the apparatus is made and that the method of making the apparatus is not germane to the patentability of the apparatus itself. Applicants respectfully submit that the single piece feature is a structural feature and not a method of making as interpreted “in light of the specification as it would be interpreted by one of ordinary skill in the art” per *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004).

Further, Applicants maintain that there is no disclosure of a “blower compartment cover” having a second capsule part as claimed. The grounds of rejection do not state specifically identify which item of the Herron, Jr. vacuum cleaner includes this feature. Rather, the grounds of rejection cite col. 2, lines 36-59 which only discusses a top cover not even shown in the drawings. In the Response to Arguments in a prior Office Action,

clarification was provided which alleged that the cover inherently has a capsule since the purpose is a suction compartment, and as such, the motor would have to be encapsulated from above as well. Applicants respectfully submit that one of ordinary skill in the art would not equate the rear wall of the top cover and an alleged inherent suction compartment with a second capsule part as claimed.

Further, the grounds of rejection state that Herron, Jr. discloses an insulating capsule, alleged as formed by the U-shaped portion (42)) and which is placed inside a blower housing. Applicants respectfully submit one of ordinary skill in the art would not consider a U-shaped portion of Herron, Jr. to be a *capsule* as claimed. Rather, item 42 is a U-shaped wall structure of noise compartment 36 where air flow baffle cartridge is positioned (see col. 3, lines 1-7). Applicants maintain that noise reduction compartment 36 does not surround motor blower assembly 24 as shown in Figure 1 of Herron, Jr.

Finally, col. 2, line 61 – col. 3, line 20 as cited does not disclose a first capsule part of the insulating capsule being joined to a portion of the blower housing while forming a single piece. This section discusses noise compartment 36 which is not a capsule. Accordingly, Applicants respectfully submit that the present invention recited in claim 21 distinguishes from Herron, Jr., and as such, claim 21 is allowable. Claims 22-36 depend on claim 21 and are allowable at least for this reason, as well as their own features.

The Rejections under 35 U.S.C. § 103(a)

Claims 37-39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Herron Jr. in view of Moshenrose et al. (U.S. Patent Publication No. 2005/0210628).

The grounds of rejection acknowledge that Herron, Jr. does not disclose the housing part of the blower comprising a holder for receiving a bearing element for the motor/blower unit. However, the grounds of rejection state that Moshenrose et al. discloses a vacuum cleaner fan unit in which the housing part of the blower comprises a holder for receiving a bearing element for the motor/blower unit so as to facilitate ease of periodic inspection and maintenance of the unit. Applicants respectfully submit that as disclosed in col. 1, lines 10-30 of Herron, Jr., one drawback in related art vacuum cleaners with walls or other components formed as part of the housing is that it is difficult to implement due to molding constraints. As such, Herron, Jr. teaches a vacuum cleaner where molding is reduced in the housing, unlike in the present invention. Applicants respectfully submit, based on this teaching of Herron, Jr. that one of ordinary skill in the art at the time of invention would have not looked to other art, such as Moshenrose et al., for teaching of the inclusion of additional parts in the housing. Indeed, Herron, Jr. teaches away from this combination. As such, Applicants respectfully submit that the combination of Herron, Jr. and Moshenrose et al. was made using improper hindsight in view of Applicants' own teaching in the present specification. Therefore, claims 37-39 are allowable.

CONCLUSION

In view of the above, reconsideration and allowance of claims 21-39 is respectfully requested. If the Examiner has any questions regarding the remarks herein, the Examiner is kindly requested to contact the undersigned. If an extension of time for this paper is required, petition for extension is herewith made.

Respectfully submitted,

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